

ASSEMBLY BILL

No. 1549

**Introduced by Committee on Banking and Finance (Nava (Chair),
Evans, Fong, Fuentes, Mendoza, Ruskin, Swanson, and Torres)**

March 9, 2009

An act to amend Sections 697.530 and 697.590 of the Code of Civil Procedure, relating to judgment liens.

LEGISLATIVE COUNSEL'S DIGEST

AB 1549, as introduced, Committee on Banking and Finance. Judgment liens: priority.

Existing law provides that a judgment lien on personal property is a lien on all interests in specified personal property, including accounts receivable, chattel paper, equipment, farm products, inventory, and negotiable documents of title, that are subject to enforcement of a money judgment against the judgment debtor at the time the lien is created if a security interest in the property could be perfected by filing a financing statement at that time with the Secretary of State, as specified.

This bill would provide, with respect to those judgment liens on specified personal property, that the judgment debtor or subject property must be located in this state. The bill would exclude from the operation of these provisions personal property that is as-extracted collateral, as defined.

Existing law provides that priority between a judgment lien on personal property and a conflicting security interest in the same personal property shall be determined according to priority in time of filing or perfection.

This bill would make agricultural liens on personal property also subject to this provision in determining priority of conflicting interests, except as provided.

The bill would make other technical and nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 697.530 of the Code of Civil Procedure
2 is amended to read:
3 697.530. (a) A judgment lien on personal property is a lien on
4 all interests in the ~~following~~ personal property that are subject to
5 enforcement of the money judgment against the judgment debtor
6 pursuant to Article 1 (commencing with Section 695.010) of
7 Chapter 1 at the time *when* the lien is created if ~~a both of the~~
8 *following apply:*
9 (1) A security interest in the property could be perfected under
10 the Commercial Code by filing a financing statement at that time
11 with the Secretary of State.
12 (2) *The personal property is, at that time, any of the following:*
13 ~~(1)~~
14 (A) Accounts receivable, *and the judgment debtor is located in*
15 *this state.*
16 ~~(2) Chattel~~
17 (B) *Tangible chattel paper, as defined in paragraph (78) of*
18 *subdivision (a) of Section 9102 of the Commercial Code, and the*
19 *judgment debtor is located in this state.*
20 ~~(3)~~
21 (C) *Equipment, excluding as-extracted collateral as defined in*
22 *paragraph (6) of subdivision (a) of Section 9102 of the Commercial*
23 *Code, located within this state.*
24 ~~(4)~~
25 (D) *Farm products, excluding as-extracted collateral as defined*
26 *in paragraph (6) of subdivision (a) of Section 9102 of the*
27 *Commercial Code, located within this state.*
28 ~~(5)~~
29 (E) *Inventory, excluding as-extracted collateral as defined in*
30 *paragraph (6) of subdivision (a) of Section 9102 of the Commercial*
31 *Code, located within this state.*

1 ~~(6)~~

2 (F) Negotiable documents of title, *excluding as-extracted*
3 *collateral as defined in paragraph (6) of subdivision (a) of Section*
4 *9102 of the Commercial Code, located within this state.*

5 (b) If any interest in personal property on which a judgment
6 lien could be created under subdivision (a) is acquired after the
7 judgment lien was created, the judgment lien attaches to the interest
8 at the time it is acquired.

9 (c) To the extent provided by Section 697.620, a judgment lien
10 on personal property continues on the proceeds received upon the
11 sale, collection, or other disposition of the property subject to the
12 judgment lien.

13 (d) Notwithstanding any other provision of this section, the
14 judgment lien does not attach to:

15 (1) A vehicle or vessel required to be registered with the
16 Department of Motor Vehicles or a mobilehome or commercial
17 coach required to be registered pursuant to the Health and Safety
18 Code.

19 (2) The inventory of a retail merchant held for sale except to
20 the extent that the inventory of the retail merchant consists of
21 durable goods having a unit retail value of at least five hundred
22 dollars (\$500). For the purposes of this paragraph, “retail merchant”
23 does not include ~~(A)~~ *a either of the following:*

24 (A) A person whose sales for resale exceeded 75 percent in dollar
25 volume of the person’s total sales of all goods during the 12 months
26 preceding the filing of the notice of judgment lien on personal
27 property ~~or (B)~~ *a.*

28 (B) A cooperative association organized pursuant to Chapter 1
29 (commencing with Section 54001) of Division 20 of the Food and
30 Agricultural Code (agricultural cooperative associations) or Part
31 3 (commencing with Section 13200) of Division 3 of Title 1 of
32 the Corporations Code (Fish Marketing Act).

33 (e) If property subject to a lien under this article becomes a
34 fixture ~~(as, as defined in paragraph (41) of subdivision (a) of~~
35 Section 9102 of the Commercial ~~Code)~~ *Code*, the judgment lien
36 on ~~such~~ *that* property is extinguished.

37 (f) Notwithstanding the filing of a notice of judgment lien,
38 subject to the provisions of Chapter 6 (commencing with Section
39 708.010), a person obligated on an account receivable or chattel
40 paper is authorized to pay or compromise the amount without

1 notice to or consent of the judgment creditor unless and until there
2 is a levy pursuant to Chapter 3 (commencing with Section
3 699.010).

4 *(g) For purposes of this section, whether a person is located in*
5 *this state is determined in accordance with Section 9307 of the*
6 *Commercial Code, except that the location of a registered*
7 *organization, as defined in paragraph (70) of subdivision (a) of*
8 *Section 9102 of the Commercial Code, that is organized under the*
9 *law of another state is determined without regard to subdivision*
10 *(e) of Section 9307 of the Commercial Code.*

11 SEC. 2. Section 697.590 of the Code of Civil Procedure is
12 amended to read:

13 697.590. (a) As used in this section:

14 (1) "Filing" means:

15 (A) With respect to a judgment lien on personal property, the
16 filing of a notice of judgment lien in the office of the Secretary of
17 State to create a judgment lien on personal property under this
18 article.

19 (B) With respect to a security interest *or agricultural lien, as*
20 *defined in paragraph (5) of subdivision (a) of Section 9102 of the*
21 *Commercial Code*, the filing of a financing statement pursuant to
22 Division 9 (commencing with Section 9101) of the Commercial
23 Code.

24 (2) "Perfection" means perfection of a security interest *or*
25 *agricultural lien* pursuant to Division 9 (commencing with Section
26 9101) of the Commercial Code.

27 (3) "Personal property" means:

28 (A) With respect to a judgment lien on personal property, the
29 property to which a judgment lien has attached pursuant to this
30 article.

31 (B) With respect to a security interest, the collateral subject to
32 a security interest pursuant to Division 9 (commencing with Section
33 9101) of the Commercial Code.

34 (C) *With respect to an agricultural lien, the farm products*
35 *subject to an agricultural lien pursuant to Division 9 (commencing*
36 *with Section 9101) of the Commercial Code.*

37 (4) "Purchase money security interest" ~~means "purchase money~~
38 ~~security interest" as defined~~ *has the same meaning as used in*
39 *Section 9103 of the Commercial Code.*

1 (b) Except as provided in subdivisions (d)~~and~~, (e), (g), and (h),
2 priority between a judgment lien on personal property and a
3 conflicting security interest *or agricultural lien* in the same
4 personal property shall be determined according to this subdivision.
5 Conflicting interests rank according to priority in time of filing or
6 perfection. In the case of a judgment lien, priority dates from the
7 time filing is first made covering the personal property. In the case
8 of a security interest *or agricultural lien*, priority dates from the
9 *earlier of the* time a filing is first made covering the personal
10 property or the time the security interest *or agricultural lien* is first
11 perfected, ~~whichever is earlier, provided that if~~ there is no period
12 thereafter when there is neither filing nor perfection.

13 (c) For the purposes of subdivision (b), a date of filing or
14 perfection as to personal property is also a date of filing or
15 perfection as to proceeds.

16 (d) A purchase money security interest has priority over a
17 conflicting judgment lien on the same personal property or its
18 proceeds if the purchase money security interest is perfected at the
19 time the judgment debtor ~~(as , as~~ a debtor under the security
20 ~~agreement)~~ *agreement*, receives possession of the personal property
21 or within 20 days thereafter.

22 (e) If a purchase money security interest in inventory has priority
23 over a judgment lien pursuant to subdivision (d) and a conflicting
24 security interest has priority over the purchase money security
25 interest in the same inventory pursuant to Section 9324 of the
26 Commercial Code, the conflicting security interest also has priority
27 over the judgment lien on the inventory subject to the purchase
28 money security interest, notwithstanding that the conflicting
29 security interest would not otherwise have priority over the
30 judgment lien.

31 (f) A judgment lien that has attached to personal property, and
32 that is also subordinate under subdivision (b) to a security interest
33 in the same personal property, is subordinate to the security interest
34 only to the extent that the security interest secures advances made
35 before the judgment lien attached or within 45 days thereafter or
36 made without knowledge of the judgment lien or pursuant to a
37 commitment entered into without knowledge of the judgment lien.
38 For the purpose of this subdivision, a secured party shall be deemed
39 not to have knowledge of a judgment lien on personal property
40 until (1) the judgment creditor serves a copy of the notice of

1 judgment lien on the secured party personally or by mail and (2)
2 the secured party has knowledge of the judgment lien on personal
3 property, as “knowledge” is defined in Section 1201 of the
4 Commercial Code. If service on the secured party is by mail, it
5 shall be sent to the secured party at the address shown in the
6 financing statement or security agreement.

7 *(g) A perfected agricultural lien on personal property has*
8 *priority over a judgment lien on the same personal property if the*
9 *statute creating the agricultural lien so provides.*

10 *(h) A security interest in personal property perfected by the*
11 *filing of a financing statement under the law of another jurisdiction,*
12 *or perfected by another method pursuant to the law of another*
13 *jurisdiction, has priority over a judgment lien in the same personal*
14 *property.*